

SENATE BILL REPORT

2SHB 2557

As Reported By Senate Committee On:
Judiciary, February 29, 2008

Title: An act relating to improving the operation of the trial courts.

Brief Description: Improving the operation of the trial courts.

Sponsors: House Committee on Apps Subcom GG (originally sponsored by Representatives Goodman, Barlow and Warnick).

Brief History: Passed House: 2/15/08, 94-0.

Committee Activity: Judiciary: 2/22/08, 2/29/08 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Dawn Noel (786-7472)

Background: The state's trial courts consist of the superior courts, district courts, and municipal courts. Superior courts are courts of general jurisdiction with no limit on the types of civil and criminal cases they may hear. District and municipal courts are courts of limited jurisdiction; their jurisdiction is set by statute. District courts are county courts and municipal courts are those established by cities and towns.

Jurisdictional Provisions. *District Courts:* Jurisdiction of the district courts is set by statute and includes jurisdiction over both civil and criminal matters. District court has concurrent jurisdiction with superior court over many kinds of civil cases. However, the district court's jurisdiction in these civil cases is limited to actions in which the amount in controversy does not exceed \$50,000. This jurisdictional dollar limit for district courts was last raised in 2000 from the amount of \$35,000.

Small Claims Court: Small claims court is a department of the district court. The hearing and disposition of a small claims court action are informal and generally the parties may not be represented by attorneys. The parties may offer evidence through witness testimony, and the judge may informally consult witnesses or otherwise investigate the controversy. The jurisdiction of the small claims court is limited to cases for the recovery of money where the amount claimed does not exceed \$4,000. This dollar limit was last raised in 2001 from an amount of \$2,500.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Municipal Court Contracting. Municipal courts have jurisdiction over misdemeanors and infractions arising under city ordinances. Cities are responsible for the prosecution, adjudication, sentencing, and incarceration of adult misdemeanor and gross misdemeanor offenders in their respective jurisdictions. Cities may meet this responsibility by establishing an independent municipal court, establishing a municipal department of the district court, or by contracting for court services through an interlocal agreement.

Most cities that contract for court services do so with the appropriate district court. There are a number of cities that contract for court services with other cities. This practice was recently challenged in the case *Primm v. Medina*. In *Primm*, the Washington Supreme Court upheld the authority of cities to enter into interlocal agreements with other cities for court services and determined that a municipal court has the authority to hear cases outside the city's geographical boundaries.

Court Commissioners. District and municipal court judges are authorized to appoint court commissioners to hear and dispose of cases. Commissioners serve at the pleasure of the appointing judges. A court commissioner must be a lawyer admitted to practice law in Washington or, in the case of cities other than Seattle, a municipal court commissioner must have passed an examination for lay judges. In districts of less than 5,000 people, a district court commissioner must be a lawyer admitted in Washington or must have passed an examination for lay judges by January 1, 2003.

District and municipal court commissioners have the same power and authority to hear and dispose of cases as the appointing judges possess and prescribe. This unlimited authority applies to both civil and criminal cases and includes the authority to preside over trials. By contrast, the authority of superior court commissioners to hear and dispose of cases is limited under both statutory and constitutional provisions.

In district court, any party has an automatic right to have a case transferred from a district court commissioner to a district judge if the party files a petition for transfer prior to any discretionary ruling by the commissioner. The following are not discretionary rulings: arrangement of the calendar; setting of an action, motion, or proceeding for hearing or trial; arraignment of an accused; or the fixing of bail. A similar right of transfer is not provided for municipal court commissioners.

Both statutory provisions and court rules provide a process for a party to have a case transferred from a district or municipal court judge by filing an affidavit of prejudice. A judge must disqualify himself or herself if a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge. The affidavit must be filed before the jury is sworn or the trial is commenced. Only one change of judge is allowed a party in a case.

Municipal Departments. A city may petition the county for the creation of a "municipal department" within the district court. Municipal courts organized as municipal departments are part of the county district court. Under this arrangement, generally the city provides the facilities and the staffing for the court and pays the county for the services of a district court judge. In practice, there are a variety of differences in organization and operation of the existing municipal departments.

Summary of Bill (Recommended Amendments): Jurisdictional Provisions. The dollar limit on the jurisdiction of district courts is raised from \$50,000 to \$75,000. The dollar limit on the jurisdiction of small claims court is raised from \$4,000 to \$5,000.

Municipal Court Contracting. Cities may meet their obligations for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenders in their jurisdictions by entering into interlocal agreements with the appropriate county or with one or more cities (the hosting jurisdiction). A hosting jurisdiction is given exclusive original jurisdiction over cases filed by the contracting city.

Court Commissioners. The authority of district and municipal court commissioners is limited. A court commissioner may not preside over trials in criminal matters, or over jury trials in civil matters unless agreed to by all parties. This limitation does not extend to Seattle Municipal Court commissioners.

The provision allowing an automatic transfer right of a case from a district court commissioner to a judge is repealed. Instead, the statutory provision regarding disqualification of a district judge is amended to apply to all judicial officers, including court commissioners. A similar provision is applied to judicial officers of municipal courts.

A judicial officer must disqualify himself or herself when a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judicial officer. The affidavit must be filed prior to any discretionary ruling, which does not include: arrangement of the calendar; setting of an action, motion or proceeding for hearing or trial; arraignment of the accused; fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

Municipal Departments. The chapter of law authorizing municipalities to establish municipal departments of district court is repealed. Existing municipal departments are grandfathered and will continue to operate under the municipal department chapter as it existed prior to its repeal.

The act is null and void unless funded in the budget.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): Strikes the date (January 1, 2003) by which a non-lawyer municipal court commissioner taking the lay examination for judges must have passed the examination to be authorized to hear or dispose of cases.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2008.

Staff Summary of Public Testimony on Second Substitute Bill: PRO: This bill is a product of a House Judiciary work group. It addresses achievable improvements in trial courts in the short term. It is something that all parties agreed to and therefore it is preferred that no changes be made. The bill shifts some of the work load from the superior courts to the

district courts, which is something they can handle. It cleans up some of the municipal court language, and makes consistent the procedures for changing judges.

We are in support of this bill overall. However, I cannot support excepting Seattle Municipal Court commissioners from the limitation on other commissioners to not preside over criminal trials or civil jury trials. I understand that pragmatically, this exception will help to accommodate that court's case load. However, it conflicts with goals of creating consistency among all trial courts, and of making all judicial officers directly accountable to the citizenry through election. Commissioners are not elected but are appointed by judges.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Stephen Shelton, Washington District and Municipal Court Judges Association.